

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

SUSAN STEBBINS :
Plaintiff : **CIVIL ACTION NO. 3:20-457**
v. : **(MANNION, D.J.)**
PHIL KAESER :
Defendant :

ORDER

Presently before the court is the report and recommendation (“Report”), ([Doc. 16](#)), of Magistrate Judge Karoline Mehalchick, which recommends the *sua sponte* dismissal of the plaintiff’s complaint for lack of subject matter jurisdiction. No objections have been filed to the Report.

When no objections are made to the report and recommendation of a magistrate judge, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” [Fed.R.Civ.P. 72\(b\)](#) advisory committee’s note; see also *Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not,

the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); M.D.Pa. L.R. 72.31.

In her Report, Judge Mehalchick observes that, because the Complaint asserts only a breach of contract claim with \$2,723.12 in damages, the court possesses neither federal question nor diversity jurisdiction over this action. Accordingly, pursuant to Federal Rule of Civil Procedure 12(h)(3), Judge Mehalchick recommends that the plaintiff's complaint be dismissed without prejudice for lack of subject matter jurisdiction. Additionally, Judge Mehalchick recommends that the plaintiff's pending motions for default and for entry of default, (Doc. 7; Doc. 8), be denied as moot in light of the answer the defendant filed on July 22, 2020, (Doc. 10).

Having reviewed the Report of Judge Mehalchick, as well as the record and pleadings, the court finds it to be legally sound and well-supported. Therefore, the court will adopt the Report of Judge Mehalchick as the opinion of this court.

Accordingly, **IT IS HEREBY ORDERED THAT:**

(1) Judge Mehalchick's Report, (Doc. 16), is ADOPTED IN ITS ENTIRETY;

- (2)** The plaintiff's Complaint, (Doc. 1), is **DISMISSED WITHOUT PREJUDICE**;
- (3)** The plaintiff's motion for default, (Doc. 7), and motion for entry of default, (Doc. 8), are **DENIED AS MOOT**; and
- (4)** The Clerk of Court is directed to **CLOSE THIS CASE**.

s/ *Malachy E. Mannion*

MALACHY E. MANNION
United States District Judge

DATE: December 11, 2020

20-457-01